

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

THURSDAY, THE 27TH SEPTEMBER 2007 / 5TH ASWINA 1929

Crl.MC.No. 3005 of 2007()

ST.2999/2005 of JUDL. MAGISTRATE OF FIRST CLASS COURT,
PARAPPANANGADI
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PETITIONER:

PUTHIYAKATH USAMATH,
S/O. KOYAKUNHI NAHA,
ERAMAKKAN HOUSE,
PARAPPANANGADI.

BY ADV. SRI.K.P.MUJEEB

RESPONDENTS:

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1. SHAJ MOHAN, S/O. SAROJAM,
MEENA FLATS, NO.10,
DEVINAGAR, PALKULANGARA,
THIRUVANANTHAPURAM-24.
 2. STATE OF KERALA,
REP. BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA,
ERNAKULAM.

BY P.P. SRI.M.S. BREEZ.

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION
ON 27/9/07 , THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:

R. BASANT, J.

Crl.M.C. No. 3005 OF 2007

Dated this the 27th day of September, 2007

ORDER

The petitioner is the complainant in a prosecution under Sec.138 of the Negotiable Instruments Act. The case stands listed for trial to tomorrow i.e., 28/9/07. The complainant is not present. He is employed abroad. The learned counsel for the petitioner/complainant submits that the complainant was available in India from 11th July 2007 to 18th September, 2007. The complainant had made requests before the learned Magistrate to post the case for trial during the said period. But unfortunately, the learned Magistrate had not accepted the request of the complainant. It is thereafter that the case was posted to 28/9/07 for trial. The complainant is not able to be present. The learned counsel for the petitioner wants this Court to issue a direction to the learned Magistrate to adjourn

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the case to a date in future so that the complainant can appear and be ready for trial on such next date. The complainant is expected to be in India by March, 2008, it is submitted.

2. It is for the petitioner to make such request before the learned Magistrate by making an appropriate application. I have no reason to assume that the learned Magistrate would not consider such request on merits and in accordance with law. No anticipatory direction need be issued by this Court. The complainant's counsel can make an application before the learned Magistrate to apprise the learned Magistrate of all the circumstances. Appropriate orders must be passed by the learned Magistrate. Needless to say, if the order is adverse to the petitioner, appropriate relief can be sought by the petitioner thereafter. No directions appear to be necessary in the matter now by this Court invoking the powers under Sec.482 of the Cr.P.C.

3. With the above observations, this Crl.M.C. is dismissed.

4. Hand over a copy of this order to the learned counsel for the petitioner.

Sd/-

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(R. BASANT, JUDGE)

//true copy//

P.S. to Judge

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